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5 **BEFORE THE**
6 **BOARD OF PHARMACY**
7 **DEPARTMENT OF CONSUMER AFFAIRS**
8 **STATE OF CALIFORNIA**

9 In the Matter of the Accusation and Petition to
10 Revoke Probation Against:

11 DAVID EDWARD WILLIAMSON
12 16160 Magnolia Blvd.
13 Encino, CA 91436

14 Pharmacist License No. RPH 35792

15 Respondent.

Case No. 2739

**DEFAULT DECISION
AND ORDER**

[Gov. Code, §11520]

16 FINDINGS OF FACT

17 1. On or about March 8, 2004, Complainant Patricia F. Harris, in her official
18 capacity as the Executive Officer of the Board of Pharmacy (Board), Department of Consumer
19 Affairs, filed Accusation and Petition to Revoke Probation No. 2739 against David Edward
20 Williamson (Respondent) before the Board of Pharmacy.

21 2. On or about August 25, 1980, the Board issued Pharmacist License No.
22 RPH 35792 to Respondent. The Pharmacist License was in full force and effect at all times
23 relevant to the charges brought herein and will expire on February 29, 2004, unless renewed.

24 3. On or about March 16, 2004, Rebeca Garcia, an employee of the
25 Department of Justice, served by Certified and First Class Mail a copy of the Accusation and
26 Petition to Revoke Probation No. 2739, Statement to Respondent, Request for Discovery, Notice
27 of Defense, Discovery Statutes and Government Code sections 11507.5, 11507.6, and 11507.7 to
28 Respondent's addresses of record with the Board, which was and is 16160 Magnolia Blvd.,
Encino, CA 91436. A copy of the Accusation and Petition to Revoke Probation No. 2739, with

1 supporting documents was served on Respondent at 117 Navasota Ln., Sequin, TX 78155. A
2 copy of the Accusation and Petition to Revoke Probation is attached as exhibit A, and is
3 incorporated herein by reference.

4 4. Service of the Accusation and Petition to Revoke Probation was effective
5 as a matter of law under the provisions of Government Code section 11505, subdivision (c).

6 5. On or about March 19, 2004, service of the Accusation and Petition to
7 Revoke Probation was received and signed for by Nancy Williamson at Respondent's address of
8 record at 117 Navasota Ln., Sequin, TX 78155.

9 6. Government Code section 11506 states, in pertinent part:

10 "(c) The respondent shall be entitled to a hearing on the merits if the respondent
11 files a notice of defense, and the notice shall be deemed a specific denial of all parts of the
12 accusation not expressly admitted. Failure to file a notice of defense shall constitute a waiver of
13 respondent's right to a hearing, but the agency in its discretion may nevertheless grant a hearing."

14 7. Respondent failed to file a Notice of Defense within 15 days after service
15 upon him of the Accusation and Petition to Revoke Probation, and therefore waived his right to a
16 hearing on the merits of Accusation and Petition to Revoke Probation No. 2739.

17 8. California Government Code section 11520 states, in pertinent part:

18 "(a) If the respondent either fails to file a notice of defense or to appear at the
19 hearing, the agency may take action based upon the respondent's express admissions or upon
20 other evidence and affidavits may be used as evidence without any notice to respondent."

21 9. Pursuant to its authority under Government Code section 11520, the Board
22 finds Respondent is in default. The Board will take action without further hearing and, based on
23 Respondent's express admissions by way of default and the evidence before it, contained in
24 exhibit A, finds that the allegations in Accusation and Petition to Revoke Probation No. 2739 are
25 true.

26 10. The total costs for investigation and enforcement are \$1,018.50 as of
27 April 13, 2004.

28 ///

1 DETERMINATION OF ISSUES

2 1. Based on the foregoing findings of fact, Respondent David Edward
3 Williamson has subjected his Pharmacist License No. RPH 35792 to discipline.

4 2. A copy of the Accusation and Petition to Revoke Probation is attached.

5 3. The agency has jurisdiction to adjudicate this case by default.

6 4. The Board of Pharmacy is authorized to revoke Respondent's Pharmacist
7 License based upon the following violations alleged in the Accusation and Petition to Revoke
8 Probation:

9 a. Business and Professions Code sections 4300 and 4301,
10 subdivision (l) and 490 - conviction of substantially related crimes.

11 b. Business and Professions Code sections 4300 and 4301,
12 subdivisions (f) and (h) - use of alcoholic beverages to the extent to be dangerous to himself.

13 c. Business and Professions Code section 4300 - failed to comply
14 with certain terms and conditions of probation.

15 ORDER

16 IT IS SO ORDERED that Pharmacist License No. RPH 35792, heretofore issued
17 to Respondent David Edward Williamson, is revoked.

18 Pursuant to Government Code section 11520, subdivision (c), Respondent may
19 serve a written motion requesting that the Decision be vacated and stating the grounds relied on
20 within seven (7) days after service of the Decision on Respondent. The agency in its discretion
21 may vacate the Decision and grant a hearing on a showing of good cause, as defined in the
22 statute.

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**BEFORE THE
BOARD OF PHARMACY
DEPARTMENT OF CONSUMER AFFAIRS
STATE OF CALIFORNIA**

In the Matter of the Accusation Against:

Case No. 2739

David Edward Williamson
16160 Magnolia Blvd
Encino, CA 91436
Pharmacist License No. RPH 35792

Respondent.

DEFAULT DECISION AND ORDER

DECISION AND ORDER


The attached Default Decision and Order is hereby adopted by the Board of Pharmacy of the Department of Consumer Affairs, as its Decision in the above-entitled matter.

This decision shall become effective on June 24, 2004.

It is so ORDERED on May 25, 2004.

BOARD OF PHARMACY
DEPARTMENT OF CONSUMER AFFAIRS
STATE OF CALIFORNIA

By



JOHN D. JONES
Board President

Attachment:

Exhibit A: Accusation and Petition to Revoke Probation No. 2739

Exhibit A

Accusation and Petition to Revoke Probation No. 2739

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of the State of California
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Attorneys for Complainant

**BEFORE THE
BOARD OF PHARMACY
DEPARTMENT OF CONSUMER AFFAIRS
STATE OF CALIFORNIA**

In the Matter of the Accusation and Petition to
Revoke Probation Against:

DAVID EDWARD WILLIAMSON
16160 Magnolia Blvd.
Encino, CA 91436

Pharmacist License No. RPH 35792

Respondent.

Case No. 2739

**ACCUSATION AND PETITION TO
REVOKE PROBATION**

Complainant alleges:

PARTIES

1. Patricia F. Harris (Complainant) brings this Accusation and Petition to Revoke Probation solely in her official capacity as the Executive Officer of the Board of Pharmacy, Department of Consumer Affairs.
2. On or about August 25, 1980, the Board of Pharmacy issued Pharmacist License No. RPH 35792 to David Edward Williamson (Respondent). The Pharmacist License was in full force and effect at all times relevant to the charges brought herein and will expire on February 29, 2004, unless renewed.
3. Effective April 7, 2002, the Board of Pharmacy placed Respondent's pharmacist license on probation for two years under certain terms based on an Accusation filed

1 against him on October 7, 1997. The Accusation was filed as a result of Respondent's plea of
2 nolo contendere in violation of section 23152 (b) of the Vehicle Code (driving under the
3 influence of alcohol), a misdemeanor on February 25, 1994 and again on December 12, 1994.

4 JURISDICTION

5 4. This Accusation and Petition to Revoke Probation is brought before the
6 Board of Pharmacy (Board), Department of Consumer Affairs, under the authority of the
7 following laws. All section references are to the Business and Professions Code unless otherwise
8 indicated.

9 5. Section 4300 of the Code provides, in pertinent part, that every license
10 issued by the Board is subject to discipline, including suspension or revocation.

11 6. Section 4301 states:

12 "The board shall take action against any holder of a license who is guilty of
13 unprofessional conduct or whose license has been procured by fraud or misrepresentation or
14 issued by mistake. Unprofessional conduct shall include, but is not limited to, any of the
15 following:

16

17 "(f) The commission of any act involving moral turpitude, dishonesty, fraud,
18 deceit, or corruption, whether the act is committed in the course of relations as a licensee or
19 otherwise, and whether the act is a felony or misdemeanor or not.

20

21 "(h) The administering to oneself, of any controlled substance, or the use of any
22 dangerous drug or of alcoholic beverages to the extent or in a manner as to be dangerous or
23 injurious to oneself, to a person holding a license under this chapter, or to any other person or to
24 the public, or to the extent that the use impairs the ability of the person to conduct with safety to
25 the public the practice authorized by the license.

26

27 "(k) The conviction of more than one misdemeanor or any felony involving the
28 use, consumption, or self-administration of any dangerous drug or alcoholic beverage, or any

1 combination of those substances.

2 "(l) The conviction of a crime substantially related to the qualifications, functions,
3 and duties of a licensee under this chapter. The record of conviction of a violation of Chapter 13
4 (commencing with Section 801) of Title 21 of the United States Code regulating controlled
5 substances or of a violation of the statutes of this state regulating controlled substances or
6 dangerous drugs shall be conclusive evidence of unprofessional conduct. In all other cases, the
7 record of conviction shall be conclusive evidence only of the fact that the conviction occurred.
8 The board may inquire into the circumstances surrounding the commission of the crime, in order
9 to fix the degree of discipline or, in the case of a conviction not involving controlled substances
10 or dangerous drugs, to determine if the conviction is of an offense substantially related to the
11 qualifications, functions, and duties of a licensee under this chapter. A plea or verdict of guilty
12 or a conviction following a plea of nolo contendere is deemed to be a conviction within the
13 meaning of this provision. The board may take action when the time for appeal has elapsed, or
14 the judgment of conviction has been affirmed on appeal or when an order granting probation is
15 made suspending the imposition of sentence, irrespective of a subsequent order under Section
16 1203.4 of the Penal Code allowing the person to withdraw his or her plea of guilty and to enter a
17 plea of not guilty, or setting aside the verdict of guilty, or dismissing the accusation, information,
18 or indictment."

19 7. California Code of Regulations, title 16, section 1770, states:

20 "For the purpose of denial, suspension, or revocation of a personal or facility
21 license pursuant to Division 1.5 (commencing with section 475) of the Business and Professions
22 Code, a crime or act shall be considered substantially related to the qualifications, functions or
23 duties of a licensee or registrant if to a substantial degree it evidences present or potential
24 unfitness of a licensee or registrant to perform the functions authorized by his license or
25 registration in a manner consistent with the public health, safety, or welfare."

26 8. Business and Professions section 490 states:

27 "A board may suspend or revoke a license on the ground that the licensee has been
28 convicted of a crime, if the crime is substantially related to the qualifications, functions, or duties

1 of the business or profession for which the license was issued . A conviction within the meaning
2 of this section means a plea or verdict of guilty or a conviction following a plea of nolo
3 contendere. Any action which a board is permitted to take following the establishment of a
4 conviction may be taken when the time for appeal has elapsed, or the judgment of conviction has
5 been affirmed on appeal, or when an order granting probation is made suspending the imposition
6 of sentence, irrespective of a subsequent order under the provisions of section 1203.4 of the
7 Penal Code."

8 9. Business and Professions Code section 118, subdivision (b) states:

9 "The suspension, expiration, or forfeiture by operation of law of a license issued
10 by a board in the department, or its suspension, forfeiture, or cancellation by order of the board or
11 by order of a court of law, or its surrender without the written consent of the board, shall not,
12 during any period in which it may be renewed, restored, reissued, or reinstated, deprive the board
13 of its authority to institute or continue a disciplinary proceeding against the licensee upon any
14 ground provided by law or to enter an order suspending or revoking the license or otherwise
15 taking disciplinary action against the licensee on any such ground."

16 10. Business and Professions Code section 125.3, subdivision (a), states, in
17 pertinent part:

18 "Except as otherwise provided by law, in any order issued in resolution of a
19 disciplinary proceeding before any board within the department . . . the board may request the
20 administrative law judge to direct a licensee found to have committed a violation or violations
21 of the licensing act to pay a sum not to exceed the reasonable costs of the investigation and
22 enforcement of the case."

23 FIRST CAUSE FOR DISCIPLINE

24 (Convictions of Substantially Related Crimes)

25 11. Respondent is subject to disciplinary action under sections 4300 and 4301,
26 subdivision and (l) of the Code on the grounds of unprofessional conduct in conjunction with
27 section 490 of the Code as defined in California Code of Regulations, title 16, section 1770, in
28 that Respondent was convicted of a crime substantially related to the qualifications, functions, or

1 duties of a pharmacist. The circumstances are as follows:

2 a. On or about May 14, 2001, Respondent was convicted on a plea of guilty
3 to one count of violating Penal Code section 23152(a), a misdemeanor, (driving under the
4 influence) and one count of violating Penal Code section 23152(b), a misdemeanor, (blood
5 alcohol level of 0.08% or more) in the Superior Court, County of San Bernardino, Case No.
6 TWV031223, entitled *The People of the State of California v. David Edward Williamson*.

7 b. On or about August 20, 2000, Respondent was stopped by the California
8 Highway Patrol and cited for driving under the influence of alcoholic beverage or drug, with
9 blood alcohol level of 0.08% or higher.

10 SECOND CAUSE FOR DISCIPLINE

11 (Use of Alcoholic Beverages to the Extent to be Dangerous to Oneself)

12 12. Respondent is subject to disciplinary action under sections 4300 and 4301,
13 subdivisions (f) and (h) of the Code, on the grounds of unprofessional conduct in that on or about
14 May 9, 2002, Respondent used and consumed of alcoholic beverages to the extent or in a manner
15 as to be dangerous or injurious to himself or to others. The circumstances are as follows:

16 a. On or about May 9, 2002, Respondent was arrested by the Los Angeles
17 Police Department for being under the influence of alcohol and failing to yield to an officer's
18 emergency equipment. Respondent was observed driving his vehicle on its left tire rim.

19 b. On or about August 20, 2000, Respondent was cited for driving while
20 under the influence of alcohol.

21 PETITION TO REVOKE PROBATION

22 1. Effective April 7, 2002, Respondent's Original Pharmacist License No.
23 RPH 35792 was revoked. However, revocation was stayed and Respondent was placed on
24 probation for two (2) years with terms and conditions including, but not limited to the following:

25 REHABILITATION PROGRAM:

26 A. Probation Condition 1 states:

27 "Within thirty (30) days of the effective date of this Decision, Respondent shall
28 contact the Pharmacist Recovery Program for evaluation and shall successfully participate in and

1 complete the treatment contract and any subsequent addendums as recommended and provided
2 by the PRP and as approved by the Board for at least one year. Should the PRP determine that
3 Respondent is no longer required to participate, Respondent's probation shall be terminated. On
4 the other hand, should the PRP determine that Respondent needs to continue participation,
5 Respondent's probationary term shall continue and shall run concurrently. The costs for PRP
6 participation shall be borne by the Respondent. Probation shall be extended automatically until
7 Respondent successfully completes his or her treatment contract."

8 Respondent has failed to enroll and complete the Pharmacist Recovery Program.
9 On July 12, 2002, the Board was notified by the Health Professional Diversion Program that
10 Respondent had not contacted the Pharmacy Recovery Program for admission.

11 ABSTAIN FROM ALCOHOL USE

12 B. Probation Condition 4 states:

13 "Respondent shall abstain completely from the use of alcoholic beverages."

14 On or about May 9, 2002 and August 20, 2000, Respondent was cited for driving
15 under the influence of an alcoholic beverage.

16 REPORTING TO THE BOARD

17 C. Probation Condition 6 states:

18 "Respondent shall report to the Board or its designee quarterly. Said report shall
19 be made either in person or in writing, as directed. If the final probation report is not made as
20 directed, the period of probation shall be extended automatically until such time as the final
21 report is made."

22 Respondent failed to submit quarterly reports for July, 2002 to and including
23 January, 2004. Quarterly reports were due to the Board by the 10th of January, April, July and
24 October of each year of his probation.

25 INTERVIEW WITH THE BOARD

26 D. Probation Condition 7 states:

27 "Upon receipt of reasonable notice, Respondent shall appear in person for
28 interviews with the Board or its designee upon request at various intervals at a location to be

1 determined by the Board or its designee. Failure to appear for a scheduled interview without
2 prior notification to Board staff shall be considered a violation of probation."

3 ///

4 Respondent failed to appear in person for interviews with the Board scheduled for
5 April 18, 2002 and July 27, 2002.

6 REIMBURSEMENT OF COSTS

7 E. Probation Condition 13 states:

8 "Respondent shall pay to the Board its costs of investigation and prosecution in
9 the amount of one thousand dollars (\$1,000.00). Respondent shall make payments according to a
10 plan approved by the Board beginning thirty (30) days after the effective date of this Decision
11 and ending six (6) months prior to the termination of probation.

12 "If Respondent fails to pay the costs as specified by the Board and on or before the
13 date(s) determined by the Board, the Board shall, without affording Respondent notice and the
14 opportunity to be heard, revoke probation and carry out the disciplinary Order that was stayed."

15 Respondent has failed to pay costs of investigation and prosecution as directed by
16 the Board.

17 CAUSE TO REVOKE PROBATION

18 2. The probation of Respondent David Edward Williamson is subject to
19 revocation in that Respondent failed to comply with conditions 1, 4, 6, 7, and 13 of probation, as
20 more fully set forth above in paragraph 1 of the Petition to Revoke Probation.

21
22 PRAYER

23 WHEREFORE, Complainant requests that a hearing be held on the matters herein
24 alleged, and that following the hearing, the Board of Pharmacy issue a decision:

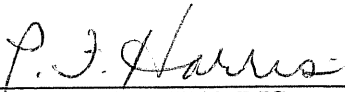
25 C. Revoking or suspending Pharmacist License No. RPH 35792, issued to
26 David Edward Williamson;

27 D. Ordering David Edward Williamson to pay the Board of Pharmacy the
28 reasonable costs of the investigation and enforcement of this case, pursuant to Business and

1 Professions Code section 125.3;

2 E. Taking such other and further action as deemed necessary and proper.

3 DATED: 3/8/04

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6 PATRICIA F. HARRIS
7 Executive Officer
8 Board of Pharmacy
9 Department of Consumer Affairs
10 State of California

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